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7                   UNITED STATES DISTRICT COURT FOR THE  
8                   WESTERN DISTRICT OF WASHINGTON  
9                   AT TACOMA

10 ROQUE "ROCKY" DE LA FUENTE,

11                   Plaintiff,

12 vs.

13 KIM WYMAN, in her official capacity as the  
14 Secretary of State of the State of Washington,

15                   Defendant.

16 Case No.: \_\_\_\_\_

17                   **COMPLAINT FOR INJUNCTIVE &**  
18                   **DECLARATORY RELIEF**

19                   I. **NATURE OF THE COMPLAINT**

20                  1. Plaintiff, ROQUE "ROCKY" DE LA FUENTE by and through his undersigned  
21 legal counsel, files this civil action pursuant to 42 U.S.C. § 1983 for prospective equitable and  
22 declaratory relief against Defendant, KIM WYMAN, made a party to this action in her official  
23 capacity as the Secretary of State for the State of Washington and as the chief elections official  
24 charged with enforcement of Washington Election Code, RCW 29A.56.031, which Plaintiff  
25 alleges violates rights guaranteed to him under the presidential Qualifications Clause of Article II  
26 and the First and Fourteenth Amendments to the United States Constitution.

27  
28                   **COMPLAINT FOR INJUNCTIVE AND**  
                  **DECLARATORY RELIEF - 1**

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## II. JURISDICTION

2. Jurisdiction lies in this Court under 28 U.S.C. § 1331, providing that the district courts of the United States shall have original jurisdiction of all civil actions arising under the Constitution of the United States.

3. Moreover, jurisdiction lies under 42 U.S.C. § 1983 and 28 U.S.C. § 1331(a), the jurisdictional counterpart of 42 U.S.C. § 1983 as Plaintiff alleges violation of rights guaranteed to him under the United States Constitution.

### III. VENUE

4.       Venue is proper in the United States District Court for the Western District of Washington, Tacoma Division under 28 U.S.C. § 1391 as Defendant exercises her statutory authority as the chief elections official of the State of Washington within this district, maintains official offices within this district, and all of the events and/or omissions giving rise to the claims advanced in this litigation occurred in this district.

## IV. PARTIES

5. Plaintiff Roque “Rocky” De La Fuente, is a registered voter and a member of the Republican Party and is a declared candidate for the 2020 presidential nomination of the Republican National Convention. Plaintiff registered as a presidential candidate seeking the 2020 Republican Party presidential nomination with the Federal Elections Commission (hereinafter “FEC”) on May 16, 2019. Plaintiff De La Fuente’s FEC presidential identification number is P60016342. As a candidate for the 2020 Republican Party presidential nomination, Plaintiff De La Fuente intends to secure ballot access to Washington’s 2020 Republican presidential primary election, seeking to contest for Washington’s 44 delegates and 44 alternate delegates to the 2020 Republican National Convention. However, Plaintiff De La Fuente refused

1 to pay a \$12,000 donation to the Washington Republican Party as a condition precedent to  
2 securing access to the Washington Republican presidential primary election. Plaintiff De La  
3 Fuente is a resident of San Diego County in the State of California.  
4

5       6. Plaintiff De La Fuente is over the age of 35, is a natural born citizen of the United  
6 States of America, having been born in San Diego, California and has been a continual resident  
7 of the United States for over 35 years.

8       7. Plaintiff De La Fuente satisfies all of the qualifications enumerated under the  
9 Presidential Qualification Clause of Article II, section 1, clause 5 of the United States  
10 Constitution.  
11

12       8. Defendant Kim Wyman is the Secretary of State of the State of Washington, and  
13 is made a party to this action in her official capacity as the official charged with enforcement of  
14 the Washington Election Code, RCW 29A.56.031, which imposes an additional qualification  
15 beyond the exclusive list enumerated in the Presidential Qualification Clause of Article II,  
16 section 1, clause 5 of the United States Constitution, preventing Plaintiff De La Fuente from  
17 securing access to Washington's 2020 Republican Party presidential primary election ballot  
18 which required Plaintiff to pay \$12,000 to the Washington Republican Party as a condition  
19 precedent to appear on Washington's taxpayer funded presidential primary election. Defendant's  
20 principal place of business is located at 416 Sid Snyder Avenue, S.W., Olympia, Washington  
21 98504-02220.  
22  
23

## 24                   V. FACTUAL ALLEGATIONS

25       9. The Presidential Qualification Clause of Article II, Section 1, Clause 5 of the  
26 United States Constitution provides the exclusive list of qualifications for an individual to be  
27 eligible to seek the Office of President of the United States.  
28

1       10. Article II, section 1, clause 5 of the United States Constitution provides that:

2                  No person except a natural born Citizen, or a Citizen of the United States, at the  
3                  time of the Adoption of this Constitution, shall be eligible to the Office of President;  
4                  neither shall any person be eligible to that Office who shall not have attained to the  
5                  Age of thirty five Years, and been fourteen Years a Resident within the United  
6                  States.

7       11. Further, the United States Constitution provides the exclusive list of methods by  
8                  which a person otherwise eligible for the Office of President may be disqualified to hold the  
9                  Office of President under the following constitutional provisions:

10                  (a) Article I, section 3, clause 7;  
11                  (b) Fourteenth Amendment, section 3;  
12                  (c) Twenty-Second Amendment.

13       12. Plaintiff De La Fuente satisfies the constitutional requirements to hold the Office  
14                  of President of the United States.

15       13. Plaintiff De La Fuente is not otherwise disqualified by any constitutional  
16                  provision from holding the Office of President of the United States.

18       14. No provision of the United States Constitution provides any authority for the State  
19                  of Washington to impose additional requirements on eligible citizens to hold the Office of  
20                  President that are not tethered to a State's legitimate interest to maintain an orderly ballot or  
21                  properly regulate Washington's election machinery.

23       15. Plaintiff De La Fuente is one of only two candidates challenging President Trump  
24                  for the 2020 Republican presidential nomination to have qualified for every 2020 state  
25                  presidential primary election ballot where candidates have been permitted to secure ballot access  
26                  without the imposition of additional qualifications such as the payment of mandatory  
27                  contributions to state party organizations.

1       16.     RCW 29A.56.031 provides that candidates seeking the 2020 Republican  
2 presidential nomination may only appear on Washington's presidential primary election ballot if:

3           "Each party must determine which candidates are to be placed on the presidential  
4 primary ballot for that party. The chair of each party must submit to the secretary  
5 of state the names of the candidates to appear on the ballot for that party no later  
6 than sixty-three days before the presidential primary. Once submitted, changes  
7 must not be made to the candidates that will appear on the ballot.

8           No later than the seventh day before the presidential nomination primary, the chair  
9 of each party must submit to the secretary of state the names of write-in candidates,  
10 if any, to be counted for that party."

11       17.     The Washington Republican presidential primary election is a taxpayer funded  
12 election contest.

13       18.     RCW 29A.56.031 is not a provision which tests whether or not a candidate has a  
14 modicum of support within the electorate to secure access to Washington's presidential primary  
15 election ballot. The challenged provision simply imposes an additional qualification by  
16 delegating to a small number of party insiders the authority to impose self-serving additional  
17 requirements, such as requiring presidential candidates to pay a mandatory donation of \$12,000  
18 to the Washington Republican Party, as a condition precedent to secure access to Washington's  
19 presidential primary election ballot – a requirement beyond the exclusive list of qualifications  
20 enumerated in Article II, Section 1, Clause 5 of the United States Constitution.

21       19.     No provision of the federal constitution provides that presidential candidates may  
22 be forced to make large donations to a political party as a condition precedent to appear on an  
23 election ballot made part of the process to select the next President of the United States.

24       20.     The Washington Republican Party used its delegated authority under RCW  
25 29A.56.031 to extort, as an additional qualification, \$12,000 donations from any presidential  
26 candidate challenging President Trump for the 2020 nomination of the Republican National  
27 Convention.

1       21. There has been a concerted effort to deny any challenger to President Trump's  
2 campaign to secure the 2020 RNC nomination access to state funded primary election ballots.  
3

4       22. For instance, the Minnesota Republican Party has admitted to a coordinated effort  
5 with the Trump campaign to block any other candidate for the 2020 Republican Party  
6 nomination from securing access to the 2020 Minnesota Republican presidential primary election  
7 ballot. In Minnesota, the Minnesota Republican Party refused to submit the name of any other  
8 presidential candidate to the Minnesota Secretary of State to be included on Minnesota's 2020  
9 presidential primary election ballot.

10      23. Similar to the Washington Republican Party, the Florida Republican Party  
11 exercised the same delegation of authority challenged in this action to openly brag that any  
12 candidate who made a \$25,000 donation to their party would be placed on the Florida  
13 Republican presidential primary ballot.

14      24. Plaintiff De La Fuente has complied with every requirement of the Washington  
15 Republican Party to secure ballot access to Washington's 2020 presidential primary election  
16 ballot except that he refused to pay a \$12,000 donation to the Washington Republican Party.  
17

18      25. The Washington Republican Party took every action possible to prevent Plaintiff  
19 from securing support from members of the Republican State Committee and refused and failed  
20 to provide accurate contact information to permit Plaintiff to make contact with party leaders.  
21

22      26. Accordingly, the challenged provisions of RCW 29A.56.031 subject challengers  
23 for the 2020 Republican Party nomination to arbitrary and capricious demands by rival and  
24 contending factions within the Washington Republican Party in excess of ballot access  
25 restrictions that Defendant may constitutionally enforce and exceeds the limited qualifications  
26 for presidential candidates established under the presidential Qualifications Clause.  
27

1       27. Plaintiff De La Fuente intends to associate with the Republican voters of  
2 Washington to provide them the opportunity to elect delegates and alternate delegates to  
3 nominate a candidate free from the stain of impeachment proceedings in a radically altered  
4 political terrain that is likely to take shape over the next several months.  
5

6       28. The requirement of RCW 29A.56.031 that Plaintiff De La Fuente's access to  
7 Washington's Republican presidential primary election ballot is conditioned on being deemed  
8 qualified by the executive committee of the Washington Republican Party by paying a \$12,000  
9 donation to the state party, violates rights guaranteed to Plaintiff under the presidential  
10 Qualification Clause of Article II, section 1, clause 5 of the United States Constitution.  
11

12       29. The challenged statute is not designed to avoid ballot clutter or promote a more  
13 manageable ballot because each political party is permitted to place as many candidates on the  
14 presidential primary ballot as the party demands – all without any requirement that candidates  
15 demonstrate support within the party electorate.  
16

17       30. The challenged statute is not designed to force, or even permit, a candidate to  
18 show any threshold of public support to secure access to the 2020 Washington Republican  
19 presidential primary ballot.  
20

21       31. The challenged statute is not designed to promote an orderly or well-regulated  
22 election process.  
23

24       32. The delegation of unfettered authority to permit a state political party to deny  
25 access to Washington's taxpayer funded presidential primary election ballot unless a candidate  
26 make a large \$12,000 donation to the state party is not designed to promote an orderly or well-  
27 regulated election process – it only promotes a corrupt election procedure.  
28

1       33.     RCW 29A.56.031 applies only to access to the presidential primary ballot and no  
2 other election ballot.

3       34.     Washington has a diminished state interest in regulating the presidential primary  
4 election ballot because the presidential primary and general elections are the only elections  
5 conducted within Washington which are decided outside the borders of the State.

6       35.     The United States Supreme Court in *Anderson v. Celebrezze*, 460 U.S. 780  
7 (1983), established that a state may not impose its most stringent ballot access restrictions to  
8 prevent ballot access for presidential candidates.

9       36.     The challenged statute's only purpose is to prevent otherwise eligible citizens  
10 from being able to contest for the Office of President in their party's primary election who are  
11 not provided permission by a small number of party officials.

12       37.     The Presidential Qualification Clause of Article II, Section 1, Clause 5 of the  
13 United States Constitution was included precisely to prevent an ever-escalating set of differing  
14 state requirements for presidential candidates.

15       38.     The challenged statute strikes at the very heart of the constitutional framework  
16 establishing a unified set of requirements that a citizen must satisfy to contest for the Office of  
17 President of the United States in America's only national election.

18       39.     The challenged statute is not an internal Republican or Democratic Party rule.

20       40.     The challenged statute does not prevent and is not related to the prevention of  
21 "party raiding" to protect the associational rights of political parties.

22       41.     Defendant's threatened enforcement of the challenged statute is the direct and  
23 proximate cause of Plaintiff's constitutional injury.

1       42. Plaintiff's injuries are the direct and proximate result of Defendant's enforcement  
2 of RCW 29A.56.031 against Plaintiff.

3       43. The challenged statute threatens Plaintiff's rights in future elections as Plaintiff  
4 intends to seek the 2024 Republican Party presidential nomination.

5       44. Plaintiff has no other remedy available at law.

6

7                     **VI. COUNT I**

8                     (As-Applied Challenge – Violation of Presidential Qualification Clause)

9       45. Plaintiff reasserts each preceding paragraph as if set forth fully herein.

10      46. RCW 29A.56.031 imposes the additional qualification on citizens otherwise  
11 qualified to hold the Office of President of the United States that they comply with any  
12 additional requirement imposed by a political party to gain access to a taxpayer-funded  
13 presidential primary ballot.

14      47. The Presidential Qualification Clause of Article II, section 1, clause 5 of the  
15 United States Constitution enumerates the exclusive qualification to hold the Office of President  
16 of the United States.

17      48. Accordingly, RCW 29A.56.031 imposes an additional qualification on Plaintiff,  
18 who is otherwise qualified under the presidential Qualifications Clause to secure access to  
19 Washington's 2020 primary election ballot in violation of rights guaranteed to Plaintiff De La  
20 Fuente under Article II, section 1, clause 5 of the United States Constitution for which Plaintiff  
21 requests emergency preliminary and permanent declaratory and injunctive relief against  
22 Defendant's threatened enforcement of RCW 29A.56.031.

23

24                     **VII. REQUEST FOR RELIEF**

25                     WHEREFORE, Plaintiff respectfully request that this Court:

26

27                     **COMPLAINT FOR INJUNCTIVE AND**  
28                     **DECLARATORY RELIEF - 9**

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(A) Enter emergency preliminary injunctive relief against Defendant from enforcing RCW 29A.56.031 in the 2020 Washington Republican presidential primary election;

(B) Order Defendant to print the name of Plaintiff Roque "Rocky" De La Fuente on the 2020 Washington Republican presidential primary election ballot;

(C) Enter permanent injunctive relief against Defendant from enforcing RCW 29A.56.031 in future presidential primary elections;

(D) Declare RCW 29A.56.031 unconstitutional;

(E) Award Plaintiff the cost of this action together with Plaintiff's reasonable attorney fees and expenses pursuant to 42 U.S.C. § 1988; and,

(F) Retain jurisdiction of this action and grant Plaintiff such other relief which in the determination of this Honorable Court to be necessary and proper.

Respectfully submitted,

Dated this 17<sup>th</sup> day of January, 2020.

## BADGLEY MULLINS TURNER PLLC

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**COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF - 10**

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